

PATENT APPLICATION  
PO-8155  
MD-04-018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICATION OF	)	
EDWARD P. BROWNE	)	GROUP NO.: 1796
SERIAL NUMBER: 10/804,894	)	EXAMINER: M. J. FEELY
FILED: MARCH 19, 2004	)	CONFIRMATION NO.: 8194
TITLE: STARTER FEED STREAM	)	
ACIDIFICATION IN DMC-	)	
CATALYZED PROCESS	)	

**REPLY BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer dated October 14, 2008.

In the Examiner's Answer on Page 6, second full paragraph, he stated that:

"[R]egarding claims 33 and 34, the teachings of O'Conner et al. are as set forth above and incorporated herein to satisfy the limitation of claims 20-31, 33 and 34."

Appellant respectfully submits that Claims 20-31 have been withdrawn from consideration so they have assumed that the Examiner only intended to refer to Claims 33 and 34 of the present application.

Also, twice in the Examiner's Answer (see page 8, first full paragraph; and page 11, first full paragraph) it was stated with regard to the McDaniel et al reference that:

"...*general* teaching of less than 100 ppm is open to possible ranges above 100 ppm..." (Emphasis original.)

Also, on page 11, first full paragraph, it was further stated by the Examiner that

“... and (b) that the acid quantity is a result-effective variable, wherein a minimum is required to prevent de-activation of the DMC catalyst.”

It is respectfully submitted by Appellant that a general teaching of less than 100 ppm can not be open to possible ranges above 100 ppm. A reference either teaches “less than 100 ppm” or it does not. A reference can not teach less than 100 ppm and be “open” to ranges above 100 ppm as stated by the Examiner. With respect to the Examiner’s position that a minimum amount of acid is required to prevent de-activation of the DMC catalyst, Appellant does not disagree with this. However, neither the O’Conner et al or the McDaniel et al references disclose or suggest to one of ordinary skill in the art that the presence of an excess of acid allows the use of low molecular weight starters without catalyst deactivation, without increasing the amount of low molecular weight tail and without appreciably increasing the polydispersity of the polyol. See discussion on page 6, lines 3-8; page 9, line 30 through page 10, line 6; and Example 2 vs. Example C1 in Table 1 on page 16 of the present application. Appellant respectfully submits that one of ordinary skill in the art has no insight into these improvements which occur when the quantity of acid is increased as required by the presently claimed invention.

In view of the above, Appellant maintains the positions as set forth in the Appeal Brief that the rejections of Claims 1-19 and 33-34 are in error. It is respectfully requested that these rejections be reversed and the Claims be allowed.

Respectfully submitted,

By   
N. Denise Brown  
Agent for Appellant  
Reg. No. 36,097

Bayer MaterialScience LLC  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3804  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
s:\shared\kgb\8155replybriefeDB

Date of Signature: 